

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES OF THE EMPIRE STATE CARPENTERS  
WELFARE, PENSION, ANNUITY, APPRENTICESHIP,  
CHARITABLE TRUST, LABOR MANAGEMENT  
COOPERATION, AND SCHOLARSHIP FUNDS,

**ORDER**  
11-CV-3573 (ADS)(ARL)

Plaintiffs,

-against-

KE GREER INFRASTRUCTURE LLC,

Defendant.

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**APPEARANCES:**

**Levy Ratner P.C.**

*Attorneys for the plaintiffs*  
80 Eighth Avenue, 8<sup>th</sup> Floor  
New York, NY 10011

By: Owen M. Rumelt, Esq., Of Counsel

**NO APPEARANCE:**

KE Greer Infrastructure LLC

**SPATT, District Judge.**

On July 5, 2011, the plaintiffs commenced this action against defendant KE Greer Infrastructure LLC. The Clerk of Court noted the default of the defendant on January 13, 2012 and on March 1, 2012, the plaintiffs moved for a default judgment. On April 5, 2012, the Court referred this matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On July 30, 2012, Judge Lindsay issued a Report and Recommendation, recommending that the Court enter a default judgment against the defendant, but deny the plaintiffs' motion for an award of damages without prejudice to a renewal thereof upon submission of a signed collective bargaining agreement between the parties for the relevant period and proper affidavits and/or declarations

referencing the pertinent provisions of the Agreements which support an award of damages in this case. To date, there have been no objections filed to Judge Lindsay's Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C).

"To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record."

Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it to be persuasive and without any legal or factual errors.

There being no objection to Judge Lindsay's Report, it is hereby

**ORDERED**, that Judge Lindsay's Report and Recommendation is adopted in its entirety. The Court: (1) grants the plaintiffs' motion for a default judgment as against defendant KE Greer Infrastructure LLC and (2) denies the plaintiffs' motion for an award of damages without prejudice to a renewal thereof upon submission of a signed collective bargaining agreement between the parties for the relevant period and proper affidavits and/or declarations referencing the pertinent provisions of the Agreements which support an award of damages in this case, and it is further

**ORDERED**, that the Clerk of the Court is directed to terminate the motion at docket entry # 5.

**SO ORDERED.**

Dated: Central Islip, New York  
September 7, 2012

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge